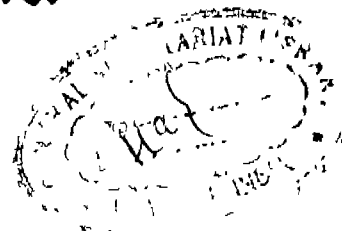




भारत का राजपत्र The Gazette of India

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 26th August, 1994:—

BILL No. L OF 1994

A Bill further to amend the Sugar-Cane Act, 1934.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Sugar-cane (Amendment) Act, 1994,

(2) It shall come into force at once.

2. In the Sugar-cane Act, 1934 (hereinafter referred to as the principal Act), section 3 the following proviso shall be added to sub-section (3), namely:—

“Provided that any factory, which has not cleared the dues payable, with or without interest for the purchase of sugar-cane in the preceding sugar season or seasons, as the case may be, to a grower or to a person licensed by the State Government to act as purchasing agent shall not be entitled for the benefits for a controlled area till such time all the dues are cleared by such factory:

Provided further that such grower or purchasing agent, who has not been paid in full for the sugar-cane sold to a factory in a

Short
title
and com-
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ment.

Amend-
ment of
section
3.

controlled area in the preceding season or seasons as the case may be, may, notwithstanding anything in sub-section (3) sell his sugar-cane to any factory outside the controlled area on the same price as fixed by the State Government or on mutually agreed terms between the grower and factory."

Insertion
of new
section
4A.

3. After section 4 of the principal Act, the following shall be inserted, namely:—

Freedom
to sell
Sugar-
cane to
Khand-
sari
sector.

"4A. Notwithstanding anything contained in any other law for the time being in force, the grower of sugar-cane shall be at liberty to sell his produce to the Khandsari sector in any part of the country at any rate he may fetch therefrom."

Amend-
ment of
Section
5.

4. In section 5 of the principal Act, the following proviso shall be added at the end, namely:—

"Provided that any factory purchasing sugar-cane from a grower or a person licensed by the State Government to act as a purchasing agent outside the controlled area as provided in the second proviso to Section 3, shall not be punished for contravention of any prohibition imposed under sub-section (3) of Section 3".

Insertion
of new
section
5A.

5. After section 5 of the principal Act, the following section shall be inserted, namely;—

Penalty
for non-
payment
of dues to
grower by
factory.

"5A. Any factory which does not clear all the dues, with or without interest of a grower of sugar-cane within a period of six months from the date of purchase of the produce, every director or officer of the factory who is knowingly a party to the non-clearance of such dues of the grower shall be punishable with imprisonment for a period which may extend to five years or with fine which may extend to two lakh rupees or with both."

STATEMENT OF OBJECTS AND REASONS

Our country is one of the biggest producers of sugar in the world. For this purpose sugar-cane is grown in large scale in the country particularly in U.P., Maharashtra, Bihar and other parts of the country. Sugar factories generally came into existence in the country after 1930. The Sugar-cane Act was enacted in 1934 to help establishment of factories by ensuring them of the supply of raw material sugar-cane on the one hand and on the other hand to ensure remunerative price to the farmers/growers of sugar-cane. It is assumed that the idea behind Section 3 of the Act was to provide continuous supply of sugar-cane to every factory by reserving a certain area for them and to discourage the purchase of sugar-cane from growers in such area by factories in other areas.

But unfortunately this provision has become an instrument in the hands of erring sugar factories. The factories with the connivance of officers have started delaying the payments to farmers who grow sugar-cane and sell their produce to such factories, rather they are forced to sell their produce to such factories under the orders issued under section 3 of the Act. There are instances when growers of sugar-cane are not paid their dues for 5 to 7 years by the erring factories. On the other hand the factory owners are earning crores and crores at the cost of farmers. Therefore, this provision has become counter-productive in many ways. Now, the time has come to change the existing law to save the farmers from further exploitation by the factory owners by giving complete freedom to sugar-cane growers to sell their produce to *Khandsari* sector and if the factory in controlled area do not pay their dues in time they can sell their produce anywhere in the country. Similarly, deterrent punishment has to be provided for the erring factories.

Hence this Bill.

DR. NAUNihal SINGH.

II

BILL NO. L-II OF 1994

A Bill to provide for the establishment of an autonomous Authority for fixation of periodical minimum support prices of various farm produces like wheat, paddy, cotton, sugarcane, coarse grains, oil seeds, pulses etc., for the entire country so that the farmers get remunerative prices for their produce and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

Short
title
extent
and com-
mence-
ment.

1. (1) This Act may be called the Farm Produce Price Fixation Authority Act, 1994.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State the Government of that State and in all other cases the Central Government;

(b) “Authority” means the Farm Produce Price Fixation Authority established under Section 3;

(c) "farm produce" includes wheat, paddy, maize, coarse grain, like jawar, bajra, millet etc., pulses, sugarcane, cotton, oilseeds, fruits, jute and such other farm or horticulture produce used for human consumption or for medicinal purposes;

(d) "prescribed" means prescribed by rules made under this Act.

3. (1) The Central Government shall by notification in the Official Gazette, establish an Authority to be known as Farm Produce Price Fixation Authority with its headquarters at Lucknow, the capital of the State of Uttar Pradesh.

Establishment of farm produce price fixation Authority.

(2) The Authority shall consist of—

(a) a Chairman having agricultural qualification or background to be appointed by the Central Government;

(b) one member having agricultural qualifications or background from each zonal office of the Authority;

(c) one member from each State Government to be nominated by the State concerned;

(d) one member each to represent the Ministries of the Central Government dealing with agriculture and fertilizers;

(e) one member to represent the Indian Council of Agricultural Research;

(f) four members to be appointed by the Central Government from amongst the farmers;

(g) four members of Parliament of whom two each shall be elected by the House of the People and the Council of States respectively.

(3) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(4) The term of office of the Chairman and Members and the manner of filling vacancies and the procedure to be followed in the discharge of their functions by the Members shall be such as may be prescribed.

(5) The Authority may appoint, with the consent of the appropriate Government such number of officers and employees of the Authority with such terms and conditions as may be prescribed.

(6) The Chairman and Members shall be paid such remuneration and allowances as may be prescribed.

4. (1) The Authority shall set up one Zonal office each in the eastern, western, northern and southern parts of the country comprising of such States and Union Territories as may be determined by the Authority.

Zonal Office.

(2) Every Zonal Office shall consist of—

(i) a Chairman having agricultural background to be appointed by the Central Government;

(ii) one member from each State or Union Territory within its jurisdiction to be nominated by the concerned State Government or Union Territory Administration as the case may be;

(iii) four representatives of farmers;

(iv) one member each representing agricultural labourers and traders of farm produce to be nominated in such manner as may be prescribed

Functions
of the
Autho-
rity.

5. (1) It shall be the duty of the authority—

(a) to fix and declare remunerative minimum support prices of farm produce before every sowing season after examining the recommendations of all the zonal offices;

Provided that different prices may be fixed for different zones.

(b) to ensure that the growers of foodgrains get reasonable and remunerative minimum price for their produce;

(c) to fix issue prices of foodgrains for retail sale to consumers every year.

(2) The Authority shall discharge its duties in close liaison with Central and State Government agencies, institutions and authorities concerned with the procurement, supply, distribution, trade etc. of farm produce to avoid duplication of efforts in this regard.

Publicity
to prices
fixed by
the Au-
thority

6. The Authority shall give wide publicity to the remunerative prices fixed for farm produce through the print and electronic media throughout the country.

Duties
of the
Zonal
Offices.

7. (1) Every Zonal Office shall recommend to the Authority the remunerative prices of farm produce in respect of the area falling within its jurisdiction

(2) Each Zonal Office before recommending remunerative prices of farm produce shall take into account all relevant factors, but in particular the following factors, namely,—

(a) average capital investments made by farmers in producing a particular farm produce;

(b) average labour charges;

(c) expenditure on crop insurance;

(d) interest on loans and instalments to be repaid on loans borrowed in connection with the farm produce;

(e) maintenance cost of the farm.

(f) expenditure incurred on fertilizers, pest control measures, electricity and diesel;

(g) expenditure incurred on bullocks and instruments used in farming, tractor and its parts;

(h) any concession, rebate or subsidy provided by Government in relation to farm produce;

(i) prevailing price of each farm produce in the open market;

(j) climatic conditions and incidence of natural calamities such as floods, drought, hailstorm, untimely rains and the like.

(k) average monthly household expenditure incurred by farmers including expenditure on education, health etc.

(l) any other incidental expenditure.

8. The appropriate Government shall purchase farm produce from the farmers at the price fixed by the Authority through its agencies if the farmer fails to sell his produce in the open market at the desired prices.

appropriate
Government to
purchase farm
produce at the
price fixed by
Authority.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act

Power
to make
rules.

STATEMENT OF OBJECTS AND REASONS

The Government so far has been fixing the minimum support price of various farm produces like wheat, paddy, cotton, sugarcane, coarse grains, oilseeds, pulses etc. on *ad hoc* basis in an arbitrary manner using administrative measures. Such actions on the part of Government have no legal sanction, hence do not render justice to the farmer. Therefore, this Bill is brought for consideration of this house at a time when we need to motivate the farmer to produce more and more not only to meet the domestic needs, but also to create surpluses for exports.

DR. NAUNIHAL SINGH.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of the farm Produce Price Fixation Authority, Sub-clause (6) of Clause 3 provides for remuneration and allowances to be paid to the Chairman and Members of the Authority. Clause 4 provides for setting up of zonal offices of the Authority. Clause 6 provide that the Authority shall give wide publicity to the remunerative prices fixed by the Authority through print and electronic media. The Bill therefore, if enacted and brought into operation would involve a recurring expenditure of rupees two crores per annum.

A sum of rupees fifty lakh would also be involved as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to frame rules for carrying out the purposes of this Bill. Since the rules will relate to the matters of details, the delegation of legislative power is of a normal character.

III

BILL NO. XLVII OF 1994

A Bill further to amend the Indian Penal Code.

BE it enacted by Parliament in the Forty-fifth year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1994.

Short
title and
com-
mence-
ment.

(2) It shall come into force at once.

2. After section 304B of the Indian Penal Code (hereinafter referred to as the Principal Act) the following section shall be inserted, namely:—

Insertion
of new
section.
304 C.

“304C (1) Where the death of a person is caused by a driver of a motor vehicle, of any description, on the road or any such place due to rash driving or negligence, such death shall be called “accidental road death” and such driver shall be guilty of causing death amounting to culpable homicide.

Causing
death by
rash and
negligent
driving.

(2) Whoever causes accidental road death shall be punished with imprisonment for a term which shall not be less than eight years but which may extend to imprisonment for life and with fine which may extend to one lakh rupees.

(3) Whoever commits accidental road death under intoxication shall be punished with death.

Omission
of Sec-
tion 309.

3. Section 309 of the principal Act shall be omitted.

Amend-
ment of
section
376.

4. In section 376 of the principal Act—

(a) for sub-section (1) the following sub-section shall be substituted, namely:—

“(1) Whoever commits rape shall be punished with castration unless the woman raped is his own wife and is not under eighteen years of age, in which case, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both.”

(b) the proviso to sub-section (1) shall be omitted.

(c) in sub-section (2),—

(i) for the words “with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine,” the words “with castration” shall be substituted.

(ii) the proviso shall be omitted.

(d) after sub-section (2) the following sub-sections shall be inserted, namely:—

“(3) Notwithstanding anything contained in sub-section (2) whoever commits rape on a woman when she is under ten years of age shall be punished with death.

(4) Whoever after committing rape on a woman causes her death shall be punished with death.”

STATEMENT OF OBJECTS AND REASONS

Thousand of people are killed on the roads throughout the country by negligent drivers of all sorts of vehicles. They drive recklessly without any fear of law because they know that the maximum punishment for causing death by negligence is two years and that too after a long legal battle to be fought in courts. Many of such accidents are caused under the influence of alcohol and other intoxicating substances in which precious human lives are lost. So providing deterrent punishment for causing accidental deaths on roads including the death sentence for causing death under intoxication is must.

Since the Supreme Court in its recent judgment has struck down section 309 of the Indian Penal Code, it should be omitted from the Code.

Of late we have noticed that rape cases have increased manifold in the country. The act of rape is the worst kind of offence against women and humanity. In some cases, the age of rape victim is as tender as nine months. The rape of infants is a stigma on our society. A girl or woman who has been raped cannot lead a normal life. The trauma and agony of the past haunts her. She slips into a state of shock and feels withdrawn and helpless. Nobody can understand her agony. Persons who commit such heinous act deserve no leniency. They should be castrated so that they should also undergo the same trauma under which their victims are going. Though this type of punishment may appear to be primitive but it will have desired effect on the rapist. Similarly the persons who rape the minors and infants below ten years of age, must be punished with death.

Hence this Bill

DR. NAUNihal SINGH

IV

BILL NO. XLV OF 1994

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1994.

(2) It shall come into Force on such date as the Central Government may, by notification in the official Gazette, appoint.

Amend-
ment
of article
324.

2. In article 324 of the Constitution,—

(a) In clause (2) for the words “subject to the provisions of any law made in that behalf by Parliament, be made by the President” the following shall be substituted namely—

“be made by the President by warrant under his hand and seal and after consultation with the Chairman of the Council of States, the Speaker of the House of the People and the Leader of the Opposition in the House of the People recognised as such under any law made in this behalf by Parliament and if there is no such leader of Opposition, the Leader of the Party

in Opposition to the Government having the largest numerical strength in that House."

(b) after clause (2), the following clause shall be inserted namely—

"(3) Every person appointed to be the Chief Election Commissioner or as the Election Commissioner shall, before he enters upon his office, make and subscribe before the President or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the third Schedule."

(c) for clause (5) the following clause shall be substituted namely,—

"(5) Subject to the provisions of any law made by Parliament the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:

"Provided that the Chief Election Commissioner or any other Election Commissioner shall not be removed from his office except in like manner and on the grounds as a judge of the Supreme Court and the conditions of service of the Chief Election Commissioner and other Election Commissioners shall not be varied to their disadvantage after their appointment:

Provided further that the Chief Election Commissioner or any other Election Commissioner shall not be eligible for further office under the Government of India or under the Government of any State or for the office of the Governor of a State or the Administrator of a Union Territory after he has ceased to hold office.

Provided also that an Election Commissioner shall be eligible for appointment as the Chief Election Commissioner."

Provided also that a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner."

STATEMENT OF OBJECTS AND REASONS

India is the largest democracy in the world with the largest number of electorates exercising their right of franchise. Holding of free and fair election is a sine qua non of Parliamentary democracy. It is of the foremost importance that the institution of the Election Commission on whose shoulder lies the superintendence, direction and control of the preparation of the electoral rolls for and the conduct of all elections of Parliament and to the legislature of every State and of elections to the offices of President and Vice-President held under our Constitution should be freed from any kind of interference or control including their functioning and manner of appointment from the executive.

Hence ~~this~~ Bill.

SATYA PRAKASH MALAVIYA

V

BILL NO. XLIII OF 1994

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1994. Short title.
2. In the Eighth Schedule to the Constitution,—Amendment of Eighth Schedule.
 - (a) entries 3 to 18 shall be re-numbered, as entries 4 to 19, respectively; and
 - (b) before entry 4, as so re-numbered the entry “3 BHOTI” shall be inserted.

STATEMENT OF OBJECTS AND REASONS

Bhoti language is widely spoken and written by the tribal people in the entire Himalayan region of six States i.e. Jammu and Kashmir, Himachal Pradesh, Uttar Pradesh, West Bengal, Sikkim and Arunachal Pradesh. To preserve the culture of this region, the preservation and development of this language is urgently needed. It has got its own script and literature.

It is high time now that Bhoti language is added to the Eighth Schedule of the Constitution.

Hence this Bill.

SATYA PRAKASH MALAVIYA

VI

BILL No. LIV OF 1994

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-fifth year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1994.

Short
title and
com-
mence-
ment

(2) It shall come into force with immediate effect.

2. In article 348 of the Constitution, for the word "English" wherever it occurs, the words "English or Hindi" shall be substituted.

Amend-
ment of
article
348.

STATEMENT OF OBJECTS AND REASONS

Even after 44 years of the Independence, Supreme Court is still transacting its business in the English language alone in accordance with article 348 of the Constitution despite the fact that hardly two per cent of our population understand English. It will be in the interest of the common masses of the country if justice is given to them in their own language. If a beginning is made in the Supreme Court which is the highest judiciary of the country, High Courts will also follow suit and give their judgements in Hindi also.

Hence this Bill.

SATISH PRADHAN.

VII

BILL NO. LXII OF 1994

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-fifth Year of Republic of India as follows:—

- | | |
|--|--------------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 1994. | Short title. |
| 2. After article 326 of the Constitution, the following article shall be inserted namely:— | Insertion of new article 326A. |
| “326A. (1) The voters in the country who intend to exercise their right to recall their elected representative shall have a right subject to such limitations and manner as may be prescribed by law made in this behalf by Parliament. | Right to recall. |
| (2) Whenever more than fifty per cent of voters whose name appear in the electoral roll of a particular constituency exercise their right to recall jointly in the manner as may be prescribed by law made in this behalf by Parliament the member of the House of | |

People or the legislative Assembly as the case may be shall cease to be member of the House of the People or legislative Assembly as the case may be and such a member shall not be entitled to pension and other related benefits on such recall.

(3) On occurrence of a vacancy under clause (2) bye-election shall be held on such vacancy within a period as may be prescribed.

(4) The right to recall shall be exercisable by a voter who shall in such manner as may be prescribed by law made in this behalf by Parliament denounce his right to secrecy of vote.

Explanation: In this article recall means disqualification of being member of the House of the People or the Legislative Assembly as the case may be and to continue to represent the constituency from which such member of the House of the People or the Legislative Assembly as the case may be was elected.

3. The Union Government shall within six months of the commencement of the Constitution (Amendment) Act, 1994 introduce a Bill in the Parliament to give effect to the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Elections are the backbone of Indian democracy. The need to ensure accountability of the legislators to the people who vest in them the power to make laws for governance of the Nation is unquestionable. This accountability must be codified. Conferring upon the voters the right to recall their elected representatives in the event of erosion of popular support for such representatives is necessary to fulfil this need.

Of late it is observed that a significant number of legislators often do not get re-elected nor continue to enjoy the support of their electorate throughout their term as Members of Parliament or State Legislature. Scientifically conducted opinion polls have revealed in recent times significant reduction in the popular support to the elected representatives of people, with passage of time.

These observed phenomena are attributable to the disregard of the interests and expectations of voters, coupled with non-fulfilment of promises made during election campaigns. This is unpardonable and must be checked.

Hence this Bill.

SATISH PRADHAN.

VIII

BILL No. XLIX OF 1994

A Bill to provide for the enforcement of total prohibition by banning manufacturing, sale, purchase, distribution and consumption of alcohol and other intoxicating drinks and for matters connected therewith.

BE it enacted by Parliament in the Forty-fifth year of the Republic of India as follows:—

Short
title,
extent
and com-
mence-
ment.

1. (1) This Act may be called the Prohibition Act, 1994.

(2) It extends to the Union Territories and the areas falling within the jurisdiction of the National Capital Regional Planning Board.

(3) It shall come into force with immediate effect.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “alcohol” means ethyl alcohol of any strength and purity generally used for producing wines and medicinal preparation.

(b) “alcoholic drinks” means drinks prepared by using alcohol which intoxicate the user of such drinks;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "prohibition" includes prohibition of manufacturing sale, purchase, distribution and consumption of alcoholic drinks.

3. With effect from the commencement of this Act, there shall be total prohibition in all the Union Territories and areas falling within the jurisdiction of the National Capital Region Planning Board and it shall be the duty of the Central Government to impose and enforce total prohibition in such areas.

Imposition and enforcement of prohibition by Central Government.

4. Whoever violates the provisions of section 3 shall be punished with imprisonment for a term not exceeding two years or with fine not exceeding rupees ten thousand or with both.

Penalty

5. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons, whether incorporated or not, every director, manager, secretary, agent or other officer or person concerned with the management thereof shall be deemed to be guilty of such offence and punished accordingly.

Offence by Company

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules

STATEMENT OF OBJECTS AND REASONS

The consumption of liquor and other intoxicating drinks is increasing menacingly in the country and is ruining families of millions by causing untimely death of alcoholics. Similarly law and order situation is also deteriorating day by day because of the liquor consumption, liquor barons and mafias are minting money by selling killer hooch. Liquor consumption is also responsible for the increase in the incidents of rapes and molestation of women and turning the drivers into devils on the roads who kill innocent road users under the influence of liquor. It is high time that total prohibition is imposed in the country. The Central Government has to initiate the process by imposing prohibition in Union Territories to start with, without bothering for the loss of revenue, for the national cause so that the States may also impose prohibition there and save millions of families from being ruined and thousands being killed on roads.

Hence this Bill.

SURESH PACHOURI

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

IX

BILL NO. LVII OF 1994

A Bill to provide for the abolition of keeping the children as slaves under bonded labour and deterrent punishment for violation thereof and also to provide for welfare measures and rehabilitation of rescued children from slavery through protection homes, education, vocational training and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

Short
title
extent
and
com-
mence-
ment.

1. (1) This Act may be called the Child Slavery (Abolition and Rehabilitation) Act, 1994.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Defini-
tions.

2. In this Act, unless the context otherwise requires—

(a) “appropriate Government” means in the case of State, the Government of that State and in all other cases the Central Government;

(b) “child” means any boy or girl below the age of twelve years;

(c) “child slave” means a child who is or has been made the property of some one else whether known as his employer, master or by whatever nomenclature and is forced to work for him without any remuneration whatsoever;

(d) "competent authority" means any authority which has been authorised by the appropriate Government by notification in the Official Gazette, to perform all or any of the functions of competent authority under this Act and for such area or areas as may be specified therein;

(e) "Employer or Master" means, --

(i) in relation to an establishment the person who has the ultimate control over the affairs of the establishment;

(ii) in relation to a dwelling house the head or Karta of such family;

(iii) in relation to a shop, stall, *dhaba*, *rehri* and alike the owner thereof;

(iv) in relation to agricultural operation the person for whom the agricultural operation is done or undertaken;

(f) "establishment" includes, a dwelling house, a factory, a mine, a plantation, an agricultural field, a shop, stall, kiosk, *dhaba*, *rehri*; tea stall, hotel, restaurant, circus, exhibition or any place or premises in which work is done by a child slave;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "shelter" means rehabilitation centres established under section 6;

3. (1) On the commencement of this Act, the child slavery, shall stand abolished and every child slave or labourer shall, on such commencement stand freed and discharged from any obligation to render forced or bonded labour for any employer or establishment.

Abolition
of child
slavery.

(2) After the commencement of this Act,—

(a) no person shall for himself or for any establishment either employ a child or compel a child to render any bonded labour or other form of forced labour;

(b) no parent or guardian of a child shall pledge his child to anybody for forced labour or as child slave.

4. On the commencement of this Act, any custom or tradition or any contract, agreement or other instrument by virtue of which any child is required to do any work or render any service as a slave shall be void and inoperative.

Agree-
ment
custom
etc. to
be void.

5. (1) Notwithstanding anything contained in any other law for the time being in force, the local police chief shall conduct a survey, from time to time, in the areas falling under his jurisdiction, of the child slaves and labourers therein and get them freed from bonded labour and lodge them in shelters for their rehabilitation by the appropriate Government.

Local
Police
to free
the
child
slaves and
labourers
and lodge
them in
shelters
for rehabi-
litation.

(2) The rehabilitation measures to be undertaken by the appropriate Government for a freed child slave shall include:—

(a) free food, clothing, boarding and lodging in the shelter;

(b) free education as per his calibre for such level and period as may be prescribed;

(c) free medical care;

(d) free vocational education and training;

(e) reservation of jobs in public and private sectors.

Establishment of shelters.

6. The appropriate Government shall establish and run such number of shelters, as may be necessary for the rehabilitation of freed child slaves through the competent authority.

Punishment for enforcement of child slavery.

7. Whoever after the commencement of this Act, compels any child to render labour or keeps him as a slave, shall be punishable with imprisonment for a term which may extend to five years and also with fine which may be extended to twenty-five thousand rupees.

Punishment for pledge-acted for slavery.

8. Any parent or guardian of a child who pledges such a child for slavery for any consideration or any custom shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to five thousand rupees.

Summary trial of offences.

9. An offence under this Act may be tried summarily by a magistrate.

Cognizance of Offences

10. Every offence under this Act shall be cognizable and non bailable

offences by Companies.

11. Where an offence under this Act has been committed by a company, every person who, at the time of offence was committed, was in-charge of, and was responsible to the company for the conduct of the business of the company, as well as the Company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this section,—

(a) "company" means any body corporate including a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

Jurisdiction of civil courts barred.

12. No civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

Act to have overriding effect.

13. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or any instrument having effect by virtue of any enactment other than this Act.

Power to make rules.

14. The Central Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

There are crores of children working as slaves and living in bondage in our country. They are working in pathetic conditions in carpet factories, brick kilns, mines particularly of limestone and stone, Beedi factories, bangle industry, crackers factories, hotels, tea stalls, restaurants *dhabas*, workshops of motor vehicles, cycles and other repair jobs, agricultural fields and as domestic servants. They are forced to work from the very tender age either for their own survival or to support their poor families or alcoholic parents. In some cases the helpless children are pledged by their parents to someone else for some consideration forcing the children to slavery. As a result these children remain illiterate and do not know what childhood is and how it is enjoyed. They are exploited to the extent possible. They work, in many cases twenty hours a day and in return are paid meagre wages. In some cases they are given only two time meals and a pair of clothes. If such helpless children fall ill or meet with an accident they are left to their destiny and suffer from the miseries and trauma.

It is said that children are the future of a country, but what about the child slaves. Child slavery is such a shameful and depressing phenomenon that nobody views it analytically. The laws prohibiting child labour are flouted and disregarded openly as if there is no law. Even the Constitutional provisions in this regard are flouted without any fear. So the law has to be stringent. It must have deterrent effect on the law breakers. It is our duty to ensure that the children of this great country must enjoy their childhood. They should get nutritious diet, good education, good and affectionate atmosphere to grow as responsible citizens of the country and we have to abolish the child slavery effectively.

Hence this Bill.

SURESH PACHORI.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the establishment of shelters for the rehabilitation of freed child slaves. The Bill, if enacted, and brought into force will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two hundred crores will be involved as recurring expenditure per annum.

A sum of rupees one hundred crore will also be involved as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill which will relate to matters of details only.

The delegation of legislative power is of normal character.

X

BILL NO. LV OF 1994

A Bill to provide for free and compulsory primary education for all the girls of school going age throughout the country and for their welfare in order to eradicate illiteracy among them and for matters connected therewith or incidental thereto.

Enacted by Parliament in the Forty-fifth year of the Republic of India as follows:—

1. (1) This Act may be called the Universalisation of Girls Education Act, 1994.

Short title,
extent
and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the official Gazette, appoint.

2. In this Act unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State the State Government and in all other cases the Central Government;

(b) “girl” means any female human being who is below the age of sixteen years;

(c) “parent” in relation to a girl includes a guardian and every person who has the actual custody of the girl;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "primary education" means education upto eighth class in a school;

(f) "school" includes every educational institution imparting primary education or higher education to the children.

Compul-
sory
Primary
education.
to girls.

3. Notwithstanding anything contained in any other law for the time being in force it shall be the duty of the appropriate Government to provide every girl residing in its territorial jurisdiction,—

(a) free and compulsory primary education:

Provided that if the girl intends to pursue higher studies beyond the primary stage the appropriate Government shall provide free higher education to such girl.

(b) Stationery helpful to her studies such as books, note-books, writing materials etc. free of cost;

(c) school uniform, free of cost;

(d) free hostel facilities and scholarships in deserving cases.

Appro-
priate
Govern-
ment of
establish
requisite
number
of
primary
schools.

4. It shall be the duty of the appropriate Government to establish and maintain or cause to be established or maintained such primary schools within its territorial jurisdiction as the appropriate Government may deem necessary so as to provide compulsory primary education to every girl residing in such jurisdiction.

Establish-
ment to
special
schools
by ap-
propriate
Govern-
ment.

5. The appropriate Government shall establish and maintain or cause to be established or maintained such number of special schools for physically handicapped or mentally retarded girls at such place or places within its territorial jurisdiction as the appropriate Government may deem necessary.

Free and
compulsory
educa-
tion for
girls.

6. The appropriate Government shall provide free and compulsory education to every girl who is ordinarily residing within its jurisdiction.

Parents
to girls.
to admit
her for
primary
educa-
tion in a
short.

7. (1) Notwithstanding any custom, usage or belief every parent shall admit his girl child on completion of five years of age to a primary school and shall not restrain the girl from attending the school.

(2) If the girl child is physically handicapped or mentally retarded it shall be the duty of the parent to admit her, on completion of five years of age to a special school established under section 5.

8. No parent or person shall engage a girl child in household chores or employ a girl child in a manner which shall prevent her from attending a primary school.

Girls
not to
be en-
gaged in
household
chores so
as to
prevent
them from
getting
primary
education

9. The appropriate Government shall, in addition to the compulsory and free primary education, also provide training to the girls in vocations like home science, tailoring, painting, doll making, knitting and weaving, food preservation, interior decoration, nursing, etc.

Vocational
training
to girls.

10. (1) If any parent of a girl, for any reasons, prevents, restrains or otherwise obstructs his girl child from receiving primary education in school such a parent shall be liable to simple imprisonment which may extend to six months or with fine which may extend to ten thousand rupees or with both.

Penalty

(2) If any parent of a girl or any person contravenes the provisions of section 8, he shall be liable to imprisonment which may extend to six years or with fine which may extend to twenty thousand rupees or with both.

11. Notwithstanding anything contained in the Code of Criminal Procedure 1973, the offences under this Act shall be cognizable.

Offences
to be
cogniz-
able.

1 of 1974.

12. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power
to make
rules.

STATEMENT OF OBJECTS AND REASONS

It is an irony that on one hand our country rather the whole world is heading towards 21st century achieving many scientific advancements but on the other hand the girls are the most neglected and unwanted lot throughout the world in general and in our country in particular. This is evident from the fact that most of the families do not want that a daughter be born in the family. Due to scientific development the female foetus is detected at the early pregnancy stages and aborted. However, despite every effort if the girl is born she is always neglected. The living conditions of girls in orthodox families particularly in rural areas are worst. While the male children get best attention the girls are treated shabbily. The boys are sent to best schools for education but the girls are not sent to schools at all. In the cities and metropolises the situation has improved a lot but in the rural areas the situation is very grim. The girls are denied even primary education. They are supposed to do the household chores and married of tenderage to contribute in the population explosion. As such most of the girls remain illiterate throughout their lives and remain dependent on others. Due to their illiteracy they are generally cheated and denied the property rights fraudulently by getting their thumb impression. Even a letter is required to be read by someone to her. This results in illiteracy to her children also. It is a hard fact that if a girl is literate, she will certainly teach to her children and will not allow them to remain illiterate.

Hence it is necessary that girls should be given compulsory primary education to eradicate illiteracy from the country. Being a welfare State it is the holy duty of the State to come forward in this field and educate the girls through compulsory and free education. The State should provide adequate number of schools for this purpose. The parents of the girls should be forced to send them to schools or they should be punished to have a deterrent effect on others. Then only the girls can be educated and illiteracy among the girls can be removed from our country.

Hence this Bill.

SURESH PACHOURI

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that appropriate Government shall establish requisite number of primary schools within its jurisdiction. Clause 5 of the Bill provides for the establishment of special schools by the appropriate Government. The Bill if enacted and brought into operation will involve expenditure from the Consolidated Fund of India. It is likely to involve a sum of rupees one thousand crores from the Consolidated Fund of India per annum as recurring expenditure.

It is also likely to involve a sum of rupees five hundred crores from the Consolidated Fund of India as non-recurring expenditure.

Hence this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

21

BILL No. LIX OF 1994

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1994.

Short
title
and com-
mence-
ment.

(2) It shall be deemed to have come into force on the 16th day of November, 1992.

2. In article 15 of the Constitution, after clause (4), the following clauses shall be added, namely:—

Amend-
ment of
article
15.

“(5) Where the special provision referred to in clause (4) provides for reservation of seats for socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes in the matter of admission into any educational institution, the State shall have regard to the population of such socially and educationally backward classes of citizens and of the Scheduled Castes and Scheduled Tribes in the State and other relevant circumstances prevailing in such State and such reservation shall as far as possible be propor-

proportionate to such population and no reservation shall be deemed to be invalid on the ground that such reservation is in excess of the fifty per cent. of the total seats in such educational institution.

Explanation I: For the purposes of this clause and clause (4), the expression "socially and educationally backward classes of citizens" shall include socially and educationally most backward classes and denotified communities.

Explanation II: For the purposes of this clause and clause (4), the expression "socially and educationally backward classes of citizens", and the expression "Scheduled Castes and the Scheduled Tribes" shall include all persons belonging to such socially and educationally backward classes, Scheduled Castes or Scheduled Tribes, as the case may be, irrespective of the—

- (i) income of, or
 - (ii) the post held by, or
 - (iii) the profession or trade or industry engaged in or carried on by, or
 - (iv) the extent of property held by,
- the parents or either of the parents of the person concerned or the person concerned himself.

(6) Notwithstanding any judgement, decree or order of any court, tribunal or other authority, no admission into any educational institution shall be deemed to be illegal or void or ever to have become illegal or void on the ground that such admission is in excess of fifty per cent. of the seats in such educational institutions.

(7) The provisions of clause (5) and clause (6) of this article and any law, rule or order made thereunder shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

Amend-
ment of
article
16.

3. In article 16, after clause (4), the following clauses shall be inserted, namely:—

"(4A) Where any provision for reservation of appointments or posts in favour of any backward classes of citizens is made under clause (4), the State shall have regard to the population of the backward classes of citizens in the State and other relevant circumstances prevailing in such State and such reservation shall, as far as possible, be proportionate to the population of such backward classes of citizens and no such provision including provision relating to carry forward of vacancies shall be deemed to be invalid on the ground that such reservation is in excess of fifty per cent. of appointments or posts

Explanation I: For the purposes of this clause and clause (4), the expression, "backward classes of citizens" shall include most backward classes and denotified communities, Scheduled Castes and Scheduled Tribes.

Explanation II: For the purposes of this clause and clause (4), the expression "backward classes of citizens" shall include all persons belonging to such backward classes irrespective of the—

(i) income of, or..... ..

(ii) the post held by, or

(iii) the profession or trade or industry engaged in or carried on by, or

(iv) the extent of property held by,

the parents or either of the parents of the person concerned or the person concerned himself.

Explanation III: For the purposes of this clause (4), the expression "appointment" shall include appointment by direct recruitment or by promotion or by transfer or by any other method.

(4B) Notwithstanding any judgement, decree or order of any court, Tribunal or other authority, no reservation made for appointment or post shall be deemed to be illegal or void or ever to have become illegal or void on the ground that such reservation is in excess of fifty per cent of the appointments or posts.

(4C) The provisions of clause (4A) and clause 4B) and any law, rule or order made thereunder shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force."

STATEMENT OF OBJECTS AND REASONS

The reservation policy which helps the advancement of backward classes is a matter of social concern and should be within the domain of the executive and interpretation of the Constitution of India should favour rather than hamper the social policy as may be laid down by the State Governments from time to time. Article 15(4) of the Constitution makes mention of the advancement of any socially and educationally backward classes of citizens. Article 16(4) of the Constitution makes mention of adequate representation to them in the services under the State. The framers of the Constitution had not fixed any limit to reservation. Various courts have delivered differing verdicts on this issue. The Supreme Court in its judgement on the Mandal Commission case had laid down that reservation in all cases should not exceed 50 per cent. It was a similar situation way back in 1951, which led to the Parliament enacting the Constitution (First Amendment) Act and that arose as a result of the courts setting aside the then reservation policy of the Government of Madras. Social changes taking place in the natural course of events are inevitable. Population of the backward classes and the level of their social and education development vary from State to State. It is, therefore, not possible to adopt a uniform reservation policy applicable to the nation as a whole. In the interest of the large majority of the people in India, it is not only proper but necessary to effect changes in the Constitution by amendment so as to give effect to the changes in the policies of the Central and State Governments.

2. The Bill seeks to give effect to the above objectives.

G. SWAMINATHAN.

XII

BILL No. IX OF 1994

A Bill to provide for monetary compensation and other rehabilitation facilities for women and girls who are victims of criminal injuries and acts of outrage and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Criminal Injuries to Women and Girls (Compensation) Act, 1994.

Short
title and
extent.

(2) It extends to the whole of India.

Defini-
tions.

2. In this Act unless the context otherwise require,—

(a) “act of outrage” means any act or conduct including abetments, attempts and preparation, by any physical sign or gesture or means, causing any physical, mental or emotional distress or indignity to a woman or girl child irrespective of the intention or motive of the person doing the same;

(b) “Commission” means Criminal Injuries Compensation Commission constituted under section 4;

(c) “crime of violence” means all crimes of violence on the body of a woman or a girl child punishable under any of the following laws, namely:—

(i) The Indian Penal Code, 1860

(ii) The Juvenile Justice Act, 1986

(iii) The Mental Health Act, 1987

(iv) The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and also includes any other act of violence, assault on or injury to any part of the body of a woman or a girl child; whether committed with or without intention to injure the modesty or dignity of a woman or a girl child;

(d) "girl" means any unmarried female below the age of 16 years;

(e) "scheme" means the criminal injuries compensation scheme for women and girls framed under section 3;

(f) "prescribed" means prescribed by rules made under this Act.

(g) "women" means any female above the age of 16 years.

Compensation
scheme
for women
and
girls.

3. (1) The Central Government shall frame a scheme to be known as the Compensation scheme for Women and Girls for the monetary compensation and other rehabilitation facilities for the victims of an act of outrage or a crime of violence.

(2) The scheme shall be administered by the Criminal Injuries Compensation Commission constituted under section 4.

Constitution
of
Criminal
Injuries
Compensation
Commission.

4. (1) The Central Government may, by notification in the Official Gazette, constitute a body to be known as Criminal Injuries Compensation Commission in each State to give compensation to women and girls who are victims of act of outrage or crime of violence.

(2) The Commission shall consist of—

(a) a Chairperson;

(b) such other members nominated from among the persons who are holding a judicial office not below the rank of a Session Judge or of advocates with such years of standing and in such manner as may be prescribed;

Provided that the total members of the Commission shall not be less than three:

Provided further that at least two of the members of the Commission shall be women.

(c) a Member-Secretary to be nominated by the Central Government who shall be—

(i) an expert in the field of criminal law,

(ii) an officer who is a member of the judicial service holding the post of a First Class Magistrate.

Terms of
office and
conditions
of service
of Chair-
person and
Members.

5. (1) The Chairperson and every Member of the Commission shall hold office for such period not exceeding three years as may be specified by Central Government in this behalf.

(2) The Chairperson or a Member of the Commission may, by notice in writing, addressed to the Central Government, resign from his office at any time.

(3) The Central Government shall remove a person from the office of a Chairperson, or a Member if he—

- (a) becomes an undischarged insolvent;
- (b) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude;
- (c) becomes of unsound mind and stands so declared by a competent court;
- (d) refuses to act or becomes incapable of acting;
- (e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings thereof or;
- (f) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

(4) A vacancy under sub-section (2) or sub-section (3) or otherwise shall be filled by fresh nomination and a person so nominated shall hold office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy has not arisen.

(5) The salary and allowances payable to and others conditions of Chairperson and members of the Commission shall be such as may be prescribed.

6. (1) The Central Government shall provide the Commission with such number of officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

Officers and other employees of the Commission.

(2) The salary and allowances payable to and other terms and conditions of service of the officers and the employees appointed for the purpose of the Commission shall be such as may be prescribed.

7. (1) The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.

Procedure to be regulated by the Commission.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Chairperson or any other officer of the Commission duly authorised by the Chairperson in this behalf.

(4) Without prejudice to the generality of the foregoing provisions, the Commission shall ensure that—

(a) the standard of proof before the Commission shall not be the same as is required before a criminal court under the provisions of the Code of Criminal Procedure, 1973;

(b) the commission shall conduct its procedure in due compliance with the principles of natural justice;

(c) no document or other information which may be used to oppose the claim shall be allowed to be used without its access to the victims;

(d) the names and other particulars regarding the victims shall not be made public;

(e) where an application has been made to the Commission before securing necessary medical or injury certificate, or without such examination, the Commission shall itself direct such examination and production of documents.

Functions
and power
of the
Commis-
sion

8. (1) The Commission shall perform all or any of the following functions, namely:—

(a) investigate and examine all matters relating to crime of violence and act of outrage on women and girls.

(b) look into complaints and take *suo moto* notice of matters relating to crime of violence and act of outrage on women and girls.

(c) finance litigation involving issue affecting large body of women and girls who are victims of crime of violence and act of outrage.

(d) provide monetary compensation and other rehabilitation measures as may be deemed just and necessary.

(e) pay the private medical cost to the victim subject to such ceiling and deduction as may be determined by the Commission.

(f) ensure that legal aid is available to a victim in making and presenting of the application for claim;

(g) notify its award for payment by an accused such sum of compensation as may be determined in such manner, as may be prescribed;

(i) give more than one award in the same case; and

(h) perform such other functions as may be assigned to it by the Central Government, in respect of crime of violence or act of outrage against women and girls.

Applica-
tion for
compen-
sation.

9. Notwithstanding anything contained in any other law for the time being in force an application for compensation, in the form and manner, as may be prescribed, may be made to the Commission which shall dispose such an application at the earliest but not later than ninety days from the receipt of such application from—

(a) a women or a girl who has been the victim of crime of violence or act of outrage;

(b) any person duly authorised by the victim;

(c) parents or guardian where such victim is a minor;

(d) in case of death of a person, any dependent or legal heir of the deceased or where such a dependent is minor, by his guardian;

Provided that no fee shall be payable in filling application under this section.

10. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.

Grants by
the Central
Govern-
ment.

(2) The Commission may spend such sums as it think fit for performing the functions under this Act and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force all moneys directed to be paid as compensation or fines in the criminal court in trial leading to conviction of the accused shall also be paid into the corpus of the commission.

11. The Commission shall prepare in such form and at such time for each financial year as may be prescribed its annual Report of Accounts and Audits of previous financial year and forward a copy thereof to the Central Government.

Annual
Reports.

12. (1) The Commission shall have and may exercise all the powers of a revision court under this section where any application for revision is made by or on behalf of any victim before the Commission.

Commis-
sion's)
power of
revision.

(2) The Commission may revise its final award in view of the serious change in the medical condition of the victim or his death:

Provided that a award shall not be re-opened three years after it has been made unless the Commission is satisfied that the renewed application can be considered without extensive enquiries.

13. An appeal shall lie to the High Court from any of the order of the Commission.

Appeal.

14. The Chairperson, Members, officer and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code 1860.

Chair-
person,
members
and staff
of the
Commis-
sion to be
public
servants.

15. No suit, prosecution or other legal proceedings shall lie against the Central Government, Commission, Chairperson Members or any officer or other employees of the Commission for anything which is done in good faith or intended to be done under this Act.

Protection
of action
taken in
good faith.

Savings.

16. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

17. (1) The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) specify matters which may be dealt with or which must be dealt with by members of the staff of the Commission or by a member or members of Commission;

(b) make provisions for—

(i) determination of a claim without a hearing;

(ii) reconsideration of previous determination without a hearing; or

(iii) the extent to which a previous determination may be altered on such a reconsideration;

(c) circumstances in which a claim is to be or may be determined by a decision at a hearing on specified issues and as to the procedure for settling the issues which are to be considered;

(d) conduct of hearing and in particular about the calling of witnesses, the admissibility of, and the weight to be given to, hearsay and opinion evidence and the order of proceedings;

(e) the confidentiality of information disclosed in connection with a claim;

(f) salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members and of officers and other employees of the Commission;

(g) the form in, and the time at, which the annual report shall be prepared under section 11;

(h) any other matter which is required to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in Session for a total period of thirty days which may be comprised in one Session or in two or more successive sessions, and if, before the expiry of the Session immediately following the Session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Article 38(1) of the Constitution enjoins upon the State to promote the welfare of the people by securing among other things social justice. In the context of the exploited and vulnerable position of women, this obligation includes taking preventive and remedial measures to protect and enhance the dignity of women and girl children and to provide speedy relief in cases of acts of violence on their person. Article 39-A similarly enjoins, that to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, legal aid by suitable legislation or schemes or in any other way, be provided. Legal Aid means aid through process of law and remedies through law and is not confined to mere monetary assistance or support for litigation, Article 15(3) enables and empowers the State to make special provisions for women and children. Entry 1 (Criminal law including all matters included in the Indian Penal Code at the commencement of the Constitution and excluding offences against laws with respect to any other matter specified in List—I or List—II and excluding the use of Naval, Military, Air Force or any other armed Forces of the Union in aid of the Civil Power) and Entry 8 (actionable wrongs) of List—III of the Seventh Schedule to the Constitution cover and relate to such matters as are dealt within the Scheme. Though actionable wrongs could be adjudicated in Civil Courts, the civil court remedy is not speedy and efficacious.

Crimes and other acts of violence on women and girl children are reported to be occurring in large numbers and the majority of victims belong to economically and socially weaker sections of the community. These victims suffer not only grave personal injury and damage to physical and mental health, but also face problems of social and community maladjustments. Remedies through Civil Courts are inadequate and very often burdensome, weary and counter productive. It is, therefore, deemed just and fair that a scheme for compensation and other rehabilitatory measures is framed

Hence this Bill.

.. SHRI V. NARAYANASAMY

FINANCIAL MEMORANDUM

Clause 3 provide for compensation scheme for women and girls. Clause 4 provide for constitution of the Criminal Injuries Compensation Commission. Under clause 5 the salary and allowances of the Chairperson and members of the Commission shall be paid by the Central Government. The Central Government has in terms of clause 6 to provide staff to the Commission. Clause 10 contemplates the payment to the Commission by way of grant for being utilised by the Commission. The Bill, therefore, if enacted is likely to involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees three crores is likely to involve per annum besides non-recurring expenditure of rupees one crore.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The matter with respect of which rules may be made are specified in sub-clause (2). These matters are of procedure of detail only. The delegation of the legislative power is, therefore, of a normal character.

XIII

BILL NO. LXI OF 1994

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Forty-fifth year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1994.

Short
title
and com-
mence-
ment.

(2) It shall come into force at once.

2. In article 371 of the Constitution, in clause (2), sub-clause (a) after the word "Marathwada" the words "Konkan region" shall be inserted.

Amend-
ment of
article
371.

STATEMENT OF OBJECTS AND REASONS

Government of India has cleared the proposal for setting up of Development Boards in the State of Maharashtra. The decision would enable setting up of statutory development boards for Vidarbha, Marathwada and rest of Maharashtra under article 371(2) of the Constitution. But to remove the imbalance of development, the Government of Maharashtra has forwarded a proposal for establishment of statutory development board for Konkan region also.

The backlog of development will be removed by setting up of the Konkan Development Board.

Hence this Bill.

GOVINDRAO ADIK

V. S. RAMA DEVI.
Secretary-General.

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